

DEC 18 2017

UNITED STATES DISTRICT COURT FOR THE **DOUGLAS F. YOUNG, Clerk**
WESTERN DISTRICT OF ARKANSAS **By**
Deputy Clerk

DAVID A. STEBBINS

PLAINTIFF

VS.

CASE NO. 3:17-cv-03092

STATE OF ARKANSAS, ARKANSAS
REHABILITATION SERVICES, AND AMY JONES

DEFENDANTS

MOTION FOR ADVERSE INFERENCE

Comes now, *pro se* Plaintiff David Stebbins, who hereby submits the following Motion for Adverse Influence or in the Alternative for Adverse Influence Instruction in the above-styled action.

1. On December 5, 2017, this Court granted in part my Motion to Compel Discovery. The Court then ordered the Defendants, within seven (7) days, to produce electronic copies of the Microsoft Word documents that were used in creating my ARS file. See **Doc. 112**.
2. In compliance with this order, the Defendants produced an electronic copy of the 2-page document that purports on its face to be Leslie Johnson's recommendation.
3. These electronic records reveal that there was indeed tampering with the records. Unfortunately, we cannot see exactly what the tampering was, since the Defendants appear to have deleted the metadata from the file. This is evidenced by the fact that these file has a "date last modified" of December 11, 2017.
4. The Defendants attempt to cover up their tampering by claiming that it was the act of transferring the file to a thumb drive that caused the change in date modified. This is patently false. Transferring files from one hard drive to another does not change the metadata. Sending files via an *email attachment* changes the metadata! But transferring files from one hard drive to another does not. I will be able to debunk the Defendants' version of events eleven ways to

Sunday with my exhibits to this motion.

5. Also, there is clear evidence that the Defendants actually made this falsification of the computer file *after* they already said that it had happened. In other words, they said that the date modified had been changed *before it actually got changed!* In other words, this was not an unintentional side effect, but rather, their own, purposeful act of tampering!

6. Please find, attached to this motion, a computer disc containing the following electronic exhibits:

- First, the disc contains the same files that was sent to me on the thumb drive.
- Second, there is a video thoroughly demonstrating how metadata is preserved across storage devices. I also demonstrate how you can still preserve the metadata in computer files across email attachments as long as you use file compression. In addition to including this video demonstration on the enclosed disc, I am also uploading this video to the following webpage: https://www.youtube.com/watch?v=eI5qQU_FwSM
- In addition, I am also including a silent version of the video demonstration. The reason for this is because, when I went to add my own commentary to the video, it drastically reduced the video quality. With commentary added, the data I wanted you to view is still readable, but just barely so. So just in case the Court no longer has vision that is correctible to 20/20, the silent version of this video demonstration has much clearer video, allowing you to see the data points much more vividly. I hope you understand.

7. A Brief is being filed alongside this motion, the contents of which are hereby incorporated by reference.

8. In light of the Defendants' blatant attempts to destroy the metadata of these computer files so I cannot review them, I ask that this Court issue an adverse inference in the above-styled

action. Specifically, I ask that this Court declare that Dr. Johnsons' initial report and recommendation was supposed to say that I am eligible for ARS benefits, and that she was persuaded – either by bribery or coercion – to change her recommendation so that Amy Jones would appear to have a basis for the decision she had already decided she wanted to make.

9. Wherefore, premises considered, I respectfully request that the Court issue an adverse inference in the above-styled action.

So requested on this, the 15th day of December, 2017.



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